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Investigation
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DATE: October 30, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Determination of
Sales at Less than Fair Value in the Antidumping Duty
Investigation of Melamine from Trinidad and Tobago

I. SUMMARY

We analyzed the case and rebuttal briefs submitted by interested parties in the antidumping duty investigation of melamine from Trinidad and Tobago. As a result of our analysis, we made changes to the *Preliminary Determination*.¹ We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum.

II. BACKGROUND

On June 17, 2015, the Department of Commerce (“Department”) published its *Preliminary Determination* in the less-than-fair-value (“LTFV”) investigation of melamine from Trinidad and Tobago.

Between June 13, 2015, and July 15, 2015, the Department conducted constructed export price (“CEP”), cost, home-market and third-country sales verifications of Southern Chemical Corporation (“SCC”), Methanol Holdings (Trinidad) Limited (“MHTL”) and Helm Italia S.R.L. (“Helm Italia”) (collectively, “MHTL” or “respondent”). We issued the Cost Verification Report on July 31, 2015,² and the Sales Verification Report on September 10, 2015.³

¹ See *Melamine from Trinidad and Tobago: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 80 FR 34621 (June 17, 2015) (“*Preliminary Determination*”).

² See Memorandum to the File, “Verification of the Cost Response of Methanol Holdings (Trinidad) Limited in the Antidumping Duty Investigation of Melamine from Trinidad and Tobago,” dated July 31, 2015 (“*Cost Verification Report*”).

³ See Memorandum to the File, “Antidumping Duty Investigation of Melamine from Trinidad and Tobago: Constructed Export Price, Home Market, and Third-Country Sales Verifications of Methanol Holdings (Trinidad)



On September 17, 2015, Petitioner⁴ and MHTL filed case briefs.⁵ On September 22, 2015, Petitioner and MHTL each filed rebuttal briefs.⁶ During the week of September 21, 2015, Petitioner and MHTL withdrew their requests for a hearing.⁷

III. SCOPE OF THE INVESTIGATION

The merchandise subject to this investigation is melamine (Chemical Abstracts Service (“CAS”) registry number 108-78-01, molecular formula $C_3H_6N_6$).⁸ Melamine is a crystalline powder or granule typically (but not exclusively) used to manufacture melamine formaldehyde resins. All melamine is covered by the scope of this investigation irrespective of purity, particle size, or physical form. Melamine that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled, but that have not been chemically reacted with each other to produce a different product. For such blends, only the melamine component of the mixture is covered by the scope of this investigation. Melamine that is otherwise subject to this investigation is not excluded when commingled with melamine from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The subject merchandise is provided for in subheading 2933.61.0000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

IV. CHANGES SINCE THE PRELIMINARY DETERMINATION

Based on our verification of SCC, MHTL and Helm Italia, and our analysis of the case and rebuttal briefs, we have made the following changes since the *Preliminary Determination*:

- We reallocated the depreciation expense associated with the urea plant from Urea Ammonia Nitrate (“UAN”) production costs to both UAN and melamine production costs. *See* Comment 1.
- We adjusted the numerator of the general and administrative (“G&A”) expense to include an offset for proceeds received on an insurance claim, capped by the amount of insurance premiums paid during the period of investigation (“POI”). *See* Comment 3.

Limited, Southern Chemical Corporation and Helm Italia S.R.L.,” dated September 10, 2015 (“Sales Verification Report”).

⁴ Cornerstone Chemical Company (“Cornerstone Chemical”)

⁵ *See* letter from Petitioner, “Melamine from Trinidad and Tobago: Petitioner’s Case Brief,” dated September 17, 2015 (“Petitioner’s Case Brief”); *See also* letter from MHTL, “Melamine from Trinidad and Tobago; Case Brief on Behalf of Methanol Holdings (Trinidad) Limited and Southern Chemical Corporation,” dated September 17, 2015 (“MHTL’s Case Brief”).

⁶ *See* letter from Petitioner, “Melamine From Trinidad and Tobago/Petitioner’s Rebuttal Brief,” dated September 22, 2015 (“Petitioner’s Rebuttal Brief”); *See also* letter from MHTL, “Melamine from Trinidad and Tobago; Rebuttal Case Brief on Behalf of Methanol Holdings (Trinidad) Limited and Southern Chemical Corporation,” dated September 22, 2015 (“MHTL’s Rebuttal Brief”).

⁷ *See* Memorandum to the File, “Parties’ Withdrawal of Request for a Hearing,” dated September 30, 2015.

⁸ Melamine is also known as 2,4,6-triamino-s-triazine; 1,3,5-Triazine-2,4,6-triamine; Cyanurotriamide; Cyanurotriamine; Cyanuramide; and by various brand names.

- We used MHTL’s UAN segmented financial data, adjusted for depreciation expense, for the calculation of constructed value (“CV”) profit (rather than the methanol segmented financial data used for the *Preliminary Determination*) because UAN is a more comparable product to melamine than is methanol. *See* Comment 4.
- We reclassified SCC’s reported commission expense as indirect selling expense (“ISE”) and revised our calculation of commission expense and ISEs in the United States to eliminate the double counting that occurred in the margin calculation of the *Preliminary Determination*. *See* Comment 5.
- We revised SCC’s reported indirect selling expenses to include certain expenses omitted from the margin calculation of the *Preliminary Determination*. *See* Comment 6.
- We based MHTL’s selling expenses for CV and CEP profit on the figures reported for the UAN division. *See* Comment 7.

For a full account of the changes made to the margin programming as a result of the decisions discussed in this memorandum, *see* the proprietary discussion and analysis in the Memorandum to the File, “Sales Analysis Memorandum for the Final Results of the Antidumping Duty Investigation: Southern Chemical Corporation, Methanol Holdings (Trinidad) Limited and Helm Italia S.R.L.,” dated concurrently with this memorandum (“MHTL Final Sales Analysis Memorandum”) and Margin Program Output at Attachment III and Memorandum to Neal M. Halper, “Cost of Production and Constructed Value Calculation Adjustments for the Final Determination - Methanol Holdings (Trinidad) Limited,” dated concurrently with this memorandum (“MHTL Final Cost Analysis Memorandum”).

V. DISCUSSION OF THE ISSUES

Comment 1: Depreciation Expense of Urea Plant

*Petitioner’s Comments and Rebuttal*⁹

Petitioner asserts that the respondent excluded certain depreciation expenses from its calculation of melamine costs. Petitioner notes that depreciation expense related to MHTL’s urea plant was assigned entirely to the production of UAN, and that some of this depreciation expense should be reassigned to the production of melamine. Petitioner further asserts that the reallocation should be done according to the Department’s methodology that was suggested in the Cost Verification Report, *i.e.*, based on the relative cost of goods sold of UAN and melamine.

Petitioner argues that there is no record evidence to support MHTL’s assertion that there is depreciation expense that relates solely to UAN because MHTL has not provided any information regarding UAN depreciation expense incurred after urea production. Petitioner asserts that this cannot be inferred from the ratio of repair and maintenance (“R&M”) costs incurred for urea production to the R&M costs incurred for UAN production, as MHTL suggests. Petitioner argues that that ratio bears no relationship to the relative depreciation expense incurred at the two facilities, as different types of machines require different R&M costs for their upkeep.

⁹ *See* Petitioner’s Case Brief at 2 and Rebuttal Brief at 6-8.

Petitioner argues, therefore, that it is not reasonable to rely on the ratio of urea R&M to UAN R&M as a proxy for the ratio of urea depreciation to UAN depreciation.

Petitioner contends also that there is insufficient information on the record to determine precisely how much depreciation was attributable to the urea ultimately consumed to make melamine, and that any gaps in the record are the result of MHTL's own reporting failures, because MHTL failed to report the depreciation component at the urea facility in its questionnaire response, an omission discovered by the Department at verification. Petitioner contends that the Cost Verification Report proposes a reasonable allocation methodology based on the limited information available. Petitioner purports that MHTL wishes to adjust that methodology and reallocate more depreciation to UAN, and asserts that by regulation, MHTL, which is the "party in possession of the relevant information," bears the burden of establishing its entitlement to the requested adjustment. Petitioner argues that MHTL cannot satisfy its burden because it failed to provide the necessary information in its questionnaire responses.

*MHTL's Comments and Rebuttal*¹⁰

MHTL agrees that a reallocation of depreciation expense from UAN to melamine is appropriate but argues that the Department's suggested reallocation methodology does not take into account the fact that the UAN plant has substantial plant and equipment assets itself, with its own related depreciation expense. MHTL asserts that this is evidenced by the fact that R&M costs were assigned separately to the urea plant and the UAN plant in MHTL's normal books and records. MHTL contends that R&M costs are logically linked to plant and equipment. MHTL argues that the UAN production cost statement shows that the UAN plant had substantial R&M costs and that nothing on the record supports that any of these costs also belong to the urea plant.

MHTL argues that the Department's suggested reallocation methodology would be applying an adverse inference to MHTL which it does not believe was the Department's intent in its suggested calculation methodology. MHTL believes that neutral facts available, and a reasonable allocation basis, should be used to allocate the combined depreciation expenses between the UAN and urea plants. MHTL suggests that the Department should first reallocate the depreciation expense that was assigned entirely to UAN between the UAN plant and the urea plant based on their relative R&M costs. Then, MHTL suggests that the Department should perform a second allocation of the estimated urea plant depreciation between UAN production and melamine production similar to the Department's suggested methodology (*i.e.*, based on the cost of goods sold).

MHTL points out that in the Department's suggested calculation, based on the relative cost of goods sold of UAN and melamine, the UAN cost of goods sold was net of depreciation expense, whereas the melamine cost of goods sold was inclusive of its depreciation expense, resulting in an over allocation of the urea plant depreciation expense to melamine. MHTL suggests that in its calculation for the final determination, the Department should remove depreciation expense from both the costs of goods sold amount UAN and the costs of goods sold amount for melamine to bring UAN and melamine costs of goods sold to an equal basis.

¹⁰ See MHTL's Case Brief at 10-12 and Rebuttal Brief at 4.

Department's Position: As stated in its Cost Verification Report, the Department found at verification that depreciation expense related to the urea plant was assigned entirely to the production of UAN, despite the fact that both UAN and melamine were produced from urea. Therefore, a reallocation of the depreciation expense associated with the urea plant, from UAN production costs to melamine production costs, is appropriate.

We agree with MHTL that the UAN plant contains its own machinery and equipment separate from the urea plant. As shown in the plant layout diagram and aerial photographs of the Ammonia, Urea, and Melamine ("AUM") complex in Cost Verification Exhibit 4, the urea plant and the UAN plant occupy distinctly different locations. In addition, the fact that urea must undergo some transformation in order to become UAN, it follows that the UAN facility has its own machinery and equipment, separate from urea, and depreciation expense associated with such machinery equipment.

We agree with Petitioner that there is insufficient information on the record to determine precisely how much of the depreciation at issue was attributable to the urea ultimately consumed in melamine production. Our suggested methodology for reallocating the depreciation expense in the Cost Verification Report was put forth as a proposed solution on which the parties could comment.

We agree with Petitioner that relative R&M costs are an unreliable methodology to allocate depreciation expense between urea and UAN. Different types of machinery may have substantially differing repair needs, as well as substantially different scheduled maintenance programs, which may have little to no relation to the relative depreciation expense of each facility's machinery.

In our Cost Verification Report we put forth an allocation methodology based on relative cost of goods sold. Petitioner agrees with the methodology outright and MHTL agreed with the methodology as a second step in its suggested alternative. The divisional cost of goods sold reflects the relative economic activity of a company's divisions (*e.g.*, UAN and melamine), and given the similar, and in some cases overlapping, production processes among MHTL's products, the cost of goods sold is a reasonable basis to allocate depreciation.

For the final determination, we allocated depreciation expense between UAN and urea using the relative production costs of UAN and urea. We then did a second allocation of the depreciation expense assigned to the urea plant between UAN and melamine based on the cost of goods sold of each product because these two products were produced from urea. When doing so, we first removed depreciation expense from the cost of goods sold amounts from both UAN and melamine in order to keep the cost of goods sold amounts on the same basis.¹¹

¹¹ See MHTL Final Cost Analysis Memorandum.

Comment 2: Natural Gas Curtailments

*MHTL's Comments*¹²

MHTL asserts that the 2010 Deepwater Horizon platform oil spill in the Gulf of Mexico led MHTL's natural gas supplier, the National Gas Company of Trinidad and Tobago ("NGC"), to cut off the supply of natural gas to MHTL's plant which dramatically disrupted MHTL's production of melamine. MHTL argues that because of this, an adjustment to MHTL's costs is warranted. MHTL argues that this event was entirely out of the control of MHTL's management. They argue that the event was dramatic, unexpected, and impacted the gas supply which is an input to melamine. MHTL asserts that the event's effects on MHTL's operations were extreme, and particularly detrimental to MHTL's melamine production.

As a result, in its cost response, MHTL adjusted its reported costs to account for this event. Specifically, MHTL's melamine production volumes were reduced which resulted in substantially higher per-unit fixed costs. MHTL explained that after the Gulf oil disaster, the main producers of natural gas in Trinidad and Tobago imposed strict repair and maintenance programs on their production sites, which have sharply reduced their gas output and predictability of supply. MHTL adds that during the POI, these disruptions led to the NGC curtailment of the supply of gas to MHTL on numerous occasions. MHTL further explains that because melamine is a downstream product that is dependent on urea and ammonia produced upstream, a reduction in natural gas supply reduces upstream supply and results in a reduction of feedstock to the melamine facility. MHTL notes that its monthly management reports document the direct effect of these supply disruptions on MHTL's melamine production.

MHTL points out that at verification the Department examined the monthly production reports that confirmed the length and production impact of each curtailment. MHTL explains that based on these production losses, in its cost response, MHTL adjusted its fixed overhead costs and restated its per-unit fixed overhead costs to offset the impact of the distortion caused by the extraordinary gas curtailments. Finally, MHTL asserts that the record establishes that the disruptions were linked to an unusual and infrequent event, such that, consistent with Department practice, MHTL's fixed overhead costs should be adjusted as reported in its section D response.

MHTL contends that the Department did not explain its reasoning in the *Preliminary Determination* for rejecting MHTL's adjustment to its fixed overhead cost. MHTL asserts that on this record and based on case law in *Floral Trade Council v. United States*, 16 C.I.T. 1014, Slip Op. 92-213 (CIT December 1, 1992) ("*Floral Trade Council*"), the Department should accept MHTL's cost adjustment because of the extraordinary nature of the Gulf oil disaster.

*Petitioner's Rebuttal*¹³

Petitioner argues that the Department properly disallowed MHTL's requested reduction to fixed overhead costs in the *Preliminary Determination*. Petitioner asserts that MHTL's argument for a

¹² See MHTL's Case Brief at 12-14.

¹³ See Petitioner's Rebuttal Brief at 8-11.

reduction in fixed overhead costs should be rejected. Petitioner claims that regardless of any tenuous connection between the POI curtailments and the 2010 oil spill, section 773(f)(1)(A) of the Tariff Act of 1930, as amended (the “Act”) requires that “costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles (“GAAP”) of the exporting country (or the producing country, where appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise.” Petitioner points out that in MHTL’s normal accounting system, as maintained in conformity with GAAP and as verified by the Department, the company recognized actual fixed overhead amounts incurred without making an adjustment for gas curtailments. Petitioner argues that MHTL’s proposed adjustment represents a departure from the normal accounting system, and there is no legal basis for this departure. Petitioner argues that, in relation to these fixed costs, MHTL’s normal records are not unreasonable four years after the spill.

Also, Petitioner contends that the Department’s practice is to not exclude costs attributable to disruptions of this type. Petitioner notes that the Department does permit adjustments for start-up operations, but points out that MHTL did not claim a start-up adjustment. Petitioner contends that MHTL does not make a claim that any of the fixed overhead expenses included in its normal books and records were considered “extraordinary expenses” under GAAP, despite claiming that the event triggering the gas curtailments was extraordinary. Petitioner further contends that the fixed overhead costs were not “unforeseen” in that MHTL itself provided information showing that the specific maintenance events giving rise to the POI curtailments were planned well in advance. Petitioner argues that the natural gas curtailments were predictable during the POI, and there is no basis for the requested adjustment.

Department’s Position: We disagree that an adjustment to MHTL’s costs is warranted. The Deep Water Horizon oil drilling platform spill occurred in 2010 and appears to have led to the natural gas curtailments experienced by MHTL which continued to occur during the POI. However, this event occurred well prior to the POI, and the numerous, recurring shortages continued through the time of the POI. MHTL gave no indication that the shortages will cease until it can secure a supply to offset the shortage. MHTL’s business model and its location in the Gulf of Mexico leave it relying completely on a single supplier of its main feedstock, natural gas. According to MHTL, the climate of stricter safety standards, which lead to additional maintenance programs, is the ongoing requirement of doing business in the Gulf of Mexico region. The supply problem that MHTL faces will continue for the foreseeable future.

We agree with Petitioner that the requested adjustment would represent a departure from MHTL’s normal books and records which were kept in conformity with GAAP. The Department is required under section 773(f)(1)(A) of the Act to first consider whether a respondent’s books and records are kept in accordance with their home country GAAP, and then to determine whether those books and records are reasonable. In this case, MHTL’s books and records were kept in accordance with the GAAP of Trinidad and Tobago, and we note that no extraordinary costs were recorded related to the gas curtailments. Further, we find that these books and records are reasonable because they accurately reflect the new regulatory environment faced by MHTL and the costs incurred by MHTL during the POI.

We disagree with MHTL that we erred in the *Preliminary Determination* based on *Floral Trade Council* (CIT 1992). In that case, the CIT upheld the Department's remand decision to normalize expenses incurred during the period resulting from two extraordinary events (*i.e.*, the collapse of the water table and a severe viral infestation). In the instant case, there were no extraordinary expenses incurred during the POI, nor recorded in the respondent's accounting system. Rather, MHTL now simply seeks to lower its fixed overhead expenses which were comprised mostly of depreciation expenses that would have been present whether the events of the Deep Water Horizon explosion and the ensuing safety and maintenance programs occurred or not. The higher per-unit fixed overhead costs do not represent a distortion as MHTL claims, but rather reflect the new regulatory environment under which MHTL must operate.

Comment 3: G&A Expenses

*MHTL's Comments and Rebuttal*¹⁴

MHTL argues that the Department should accept its minor correction to the G&A expense ratio presented at verification. The correction is an offset to the numerator of the ratio for the proceeds received on an insurance claim, which related to an event that occurred prior to the POI. MHTL argues that the very nature of insurance is such that there may be an extended period between an event, filing a claim, resolution of that claim, and payment. MHTL contends that it pays insurance on an annual basis and records that recurring expense, as well as any proceeds from claims in the period, as current year activities. MHTL further contends that the insurance expense and associated claim payment relate to the general operations of the company, and points out that both are reported as they were recorded in MHTL's financial statement.

MHTL argues that, given the nature of the insurance policy and associated expense, it would be contrary to established Department practice to exclude any income that was received by MHTL as a result of a claim paid on that policy and cites *Stainless Steel Wire Rod from Korea*¹⁵ in support of its argument. MHTL also cites *Silicomanganese from India*¹⁶ in support of its contention that the Department's practice is to include both the expense and any income in the G&A expense ratio calculation regardless of whether the originating event occurred prior to the POI. MHTL asserts that in *Silicomanganese from India* the company received insurance payments during the POI resulting from a pre-POI claim for fire damages and a separate claim for flood damage and, despite the long lag between the triggering event and receipt of the insurance payments, the Department properly recognized that the payments related to the general operations of the company and should be captured in the reported costs. MHTL further cites

¹⁴ See MHTL's Case Brief at 14-16 and Rebuttal Brief at 5-6.

¹⁵ See *Stainless Steel Wire Rod from Korea: Final Results of Antidumping Duty Administrative Review*, 67 FR 6685 (February 13, 2002) and accompanying Issues and Decision Memorandum at Comment 4D ("*Stainless Steel Wire Rod from Korea*").

¹⁶ See *Silicomanganese from India: Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances Determination*, 67 FR 15,531 (April 2, 2002) and accompanying Issues and Decision Memorandum at Comment 14 ("*Silicomanganese from India*").

*Circular Welded Non-Alloy Steel Pipe from the Republic of Korea*¹⁷ noting that the Department included a current year expense that related to a prior year event.

MHTL claims that the cases cited in Petitioner's brief are also examples of the Department allowing an offset of insurance reimbursements, albeit in smaller amounts, received during the period of review. MHTL points out, for example, that in *Steel Concrete Reinforcing Bar from Turkey*,¹⁸ the Department included the entire amount of insurance proceeds paid during the POR as a G&A expense offset, relying in particular on the verification that the respondent's books and records were accurate. MHTL claims that Department precedent confirms that the timing of the event giving rise to the insurance claim does not control the decision, and that, in MHTL's case, the Department should rely on the G&A expenses and the offsetting insurance payment. MHTL, therefore, asserts that the Department should rely on the revised G&A expense ratio calculation.

*Petitioner's Comments and Rebuttal*¹⁹

Petitioner contends that the G&A expense ratio should be adjusted only for packing costs, which were incorrectly included in the denominator of the calculation. As to the insurance claim offset requested by MHTL, Petitioner cites *Chlorinated Isocyanurates from Spain*²⁰ in support of its assertion that the Department's established practice precludes offsetting G&A expense by insurance proceeds arising from losses incurred in prior years. Petitioner claims that the Department grants exceptions only where the proceeds meet each of the following three conditions: 1) they relate to small losses of the nature typically experienced by a business (e.g., auto accidents involving company vehicles), 2) they do not relate to a significant event, such as a fire, where the Department is concerned with matching the proceeds to the year in which the related loss was recorded, and 3) they closely approximate losses during the year in question.²¹

Petitioner contends that in the instant case none of these three conditions are met, let alone all of them. Petitioner asserts that the proceeds are large, they relate to an unusual and nonrecurring event, and there were no similarly sized losses incurred in the POI. Therefore, Petitioner contends, the insurance proceeds should not offset G&A expenses.

Petitioner argues that *Stainless Steel Wire Rod from Korea* did not involve large insurance proceeds arising from a prior period loss. Further, Petitioner argues that the Department has clarified that *Silicomanganese from India* did not address the "timing of such proceeds;" rather it addressed only whether the insurance proceeds should be considered "extraordinary income."²²

¹⁷ See *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea*, 79 FR 37284 (July 1, 2014) and accompanying Issues at Decision Memorandum at Comment 4 ("*Circular Welded Non-Alloy Steel Pipe from the Republic of Korea*").

¹⁸ See *Steel Concrete Reinforcing Bar from Turkey: Notice of Final Determination*, 79 FR 54965 (September 15, 2014) and accompanying Issues and Decision Memorandum at Comment 17 ("*Steel Concrete Reinforcing Bar from Turkey*").

¹⁹ See Petitioner's Case Brief at 3-4 and Rebuttal Brief at 11-13.

²⁰ See *Chlorinated Isocyanurates from Spain: Notice of Final Results*, 73 FR 79789 (December 30, 2008) and accompanying Issues and Decision Memorandum at Comment 4 ("*Chlorinated Isocyanurates from Spain*").

²¹ See *Steel Concrete Reinforcing Bar from Turkey* and accompanying Issues and Decision Memorandum at Comment 17.

²² *Id.*; see also *Certain Steel Concrete Reinforcing Bars from Turkey: Notice of Final Results*, 72 FR 62630 (November 6, 2007) and accompanying Issues and Decision Memorandum at Comment 5; and *Certain Softwood*

Petitioner asserts that, therefore, *Silicomanganese from India* does not hold that insurance proceeds related to prior period losses may offset current period G&A expenses.

Finally, Petitioner argues that MHTL's citation to *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea* is off point. Petitioner claims that that case involved litigation accruals that, although related to prior period events, were recognized as current year expenses because they became probable and reasonably estimable in the year under consideration. Petitioner claims that the Department's treatment of such accruals as expenses does not imply that insurance proceeds arising from prior period losses should be treated as offsets. Rather, Petitioner contends, the above-cited cases dealing squarely with the timing issue hold that such proceeds should not offset G&A expenses, and therefore, MHTL's argument should be rejected.

Department's Position: MHTL suffered damages arising from the breakdown of a steam turbine in 2008, and as a result received during the POI insurance reimbursement related to this event.

The Department normally allows an offset for insurance reimbursement up to the amount of related losses incurred during the cost reporting period.²³ As we stated in *Certain Durum Wheat and Hard Red Spring Wheat from Canada: Notice of Final Determination of Sales at Less Than Fair Value*, 68 FR 52741 (September 5, 2003) and accompanying Issues and Decision Memorandum at Comment 19, "we included the insurance proceeds because it compensates the farmer for higher than normal per-unit costs incurred. However, we consider it unreasonable to allow the farmer to further reduce its per-unit costs by profit received...which goes beyond the additional costs incurred as a result of the insured event."

We note that none of the cases cited by MHTL deal with the issue at hand, *i.e.*, the matching of costs incurred as a result of the insured event with insurance proceeds received. For example, *Stainless Steel Wire Rod From Korea* does not address insurance proceeds related to a prior period claim. In *Silicomanganese from India* the Department addressed the issue of whether insurance payments constitute extraordinary income, but not the timing of the insurance proceeds verses the related losses from the insurance claim. In *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea*, the issue involved litigation accruals and not proceeds from an insurance claim. Finally, in *Steel Concrete Reinforcing Bar from Turkey*, while the Department allowed an offset for insurance proceeds, that case can be distinguished from the current case in that the Department stated "the losses and proceeds did not relate to a significant event, such as a fire, where we are concerned with matching the proceeds to the year in which the related loss was recorded." The matching of the losses and the proceeds on the insurance claim is precisely the issue in the instant case.

In the instant case we are including the amount of the insurance proceeds up to the amount of insurance premiums paid during the POI because the premiums paid relate to the policy on which the proceeds were received.²⁴ However, we disagree with MHTL that it would be

Lumber from Canada: Notice of Final Results, FR 73437 (December 12, 2005) and accompanying Issues and Decision Memorandum at Comment 40.C.

²³ See *Chlorinated Isocyanurates from Spain* and accompanying Issues and Decision Memorandum at Issue 4.

²⁴ See MHTL Final Cost Analysis Memorandum.

reasonable to allow the insurance proceeds to further reduce the current period's costs of production because the insurance proceeds relate to expenses recognized prior to the POI.

Comment 4: CV Profit

Background: MHTL does not have a viable home market, and all sales fell below cost in the third country market, and, thus, NV is based on CV. Therefore, prior to the *Preliminary Determination*, we requested information and comment with respect to CV profit alternatives from the parties. For the *Preliminary Determination*, we calculated MHTL's CV profit in accordance with section 773(e)(2)(B)(iii) of the Act, using the profit from MHTL's methanol division.

*MHTL's Comments and Rebuttal*²⁵

MHTL argues that the Department should use the financial statements of Borealis AG ("Borealis") as the basis for the calculation of CV profit for the final determination. Borealis is an Austrian company that produces melamine along with other products. MHTL asserts that Borealis' sales experience of melamine and a similar line of product as MHTL, and its presence in Europe, best reflect MHTL's sales and profit experience for melamine of all the alternatives for CV profit on the record.

MHTL argues that the Department's use of MHTL's methanol sales as the basis for calculating CV profit in the *Preliminary Determination* unreasonably skews the calculation by relying on a less comparable product line. MHTL argues that the Borealis financial statements are more in line with the Department's policy and practice, and the Department has not provided a reason to disregard the Borealis financial statements. MHTL asserts that the Borealis financial data is the best available surrogate for calculating CV profit because: 1) it is more representative of MHTL's melamine experience, as it includes financial data for melamine (unlike the current use of MHTL's methanol-only figures); 2) it better represents profit and selling expenses in the comparison market, as it is a European producer and the Department has selected Italy as the comparison market; and 3) to the extent that Borealis sales are based largely on other, non-melamine, products, the Borealis results more closely track MHTL's overall profitability.

MHTL asserts that the Department has confirmed the importance of using financial and sales data for the same products as subject merchandise in *OCTG from Korea*.²⁶ In that case, MHTL points out that before selecting among the potential alternatives, the Department first determined which products fit within the same general category of products as the subject merchandise. MHTL asserts that this indicates that using the Borealis data is preferable to using MHTL's methanol data precisely because it includes melamine production and sales. MHTL asserts that by using MHTL's methanol financial data in the *Preliminary Determination*, it effectively eliminated melamine from the calculation and relied entirely on profit figures for methanol.

²⁵ See MHTL's Case Brief at 5-10 and Rebuttal Brief at 2-3.

²⁶ See *Certain Oil Country Tubular Goods from the Republic of Korea: Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances*, 79 FR 41983 (July 18, 2014) and accompanying Issues and Decision Memorandum at Comment 1 ("*OCTG from Korea*").

MHTL points out that, in the *Preliminary Determination*, the Department gave three reasons why it did not use the Borealis financial statements: 1) its financial statement included products other than melamine, 2) the company does not operate in Trinidad and Tobago, and 3) the majority of the sales relate to other products. MHTL argues that the first and last reasons apply equally to MHTL's non-melamine segmented data, and do not therefore justify a rejection of the Borealis data. MHTL asserts that Borealis' operations in Europe make its financial data highly relevant to this investigation, given the selection of Italy as the third-country comparison market. MHTL, therefore, contends that the Borealis financial statement represents the best available information before the Department to use as a surrogate.

MHTL argues that if the Department does not use the Borealis financial data, then it should use the segmented financial information of MHTL's production and sale of UAN. MHTL argues that the same logical framework regarding product categories used in *OCTG from Korea* and discussed above demonstrates that UAN is a closer match to melamine than is methanol, particularly in terms of production process. MHTL contends that while methanol is a primary product produced directly from natural gas in an entirely separate facility, both UAN and melamine are tertiary products produced from natural gas in the same facility, *i.e.*, natural gas is first used to produce ammonia, ammonia is then used to produce urea, and finally urea is used to produce both melamine and UAN. MHTL maintains that because melamine and UAN are both tertiary products produced in the same complex which share many production steps, UAN would serve as a closer match than methanol for determining CV profit.

MHTL adds that if the Department uses MHTL's internal financial statement for UAN to calculate CV profit, then it should be careful not to double count certain G&A expenses in the calculation as it did in the *Preliminary Determination* when calculating CV profit using MHTL's methanol financial data. Specifically, MHTL points out that the Department used the methanol cost of sales figure that included Industrial Plant Services Ltd.'s ("IPSL", *i.e.*, MHTL's plant operator) G&A expenses, which are costs already included in MHTL's reported costs. That is, in the reported costs for melamine, the IPSL G&A expenses were reclassified from the cost of manufacturing to G&A expenses.

MHTL argues that its provision of the UAN financial statements was not new factual information as Petitioner asserts, but rather it was information provided in response to the Department's request at the verification as part of the reconciliation of costs. MHTL asserts that the purpose of verification is to establish the proper data to be used by the Department in its margin calculations. MHTL further asserts that the need for a reallocation of depreciation expense from UAN to melamine is not a proper reason to reject using the UAN data for the CV profit calculation. MHTL contends that the Department routinely does its own calculations following verification, and the reallocation of depreciation adjustment is straightforward.

*Petitioner's Comments and Rebuttal*²⁷

Petitioner argues that for the final determination the Department should continue to calculate CV profit based on MHTL's methanol division. Petitioner argues that the Department provided interested parties an opportunity to submit new factual information to be used to calculate CV

²⁷ See Petitioner's Case Brief at 5-8 and Rebuttal Brief at 1-6.

profit, as well as an opportunity to rebut the other interested party's submission by certain deadlines, prior to verification. Petitioner points out that MHTL did not submit any information with respect to MHTL's UAN division at this time, but rather submitted the UAN income statement with its cost verification exhibits. Petitioner argues that, as stated in the cost verification agenda, the purpose of verification is to verify the database and questionnaire responses which were submitted prior to verification, and not an opportunity to submit new factual information. Petitioner argues that it would be unfairly prejudiced if the Department were to allow MHTL to use verification to submit this new factual information to get around the Department's deadlines. Petitioner asserts that it spent considerable efforts rebutting MHTL's submission of the Borealis financial statements and was not given a similar opportunity to rebut the UAN profitability data. Petitioner asserts that the Department should enforce its own deadlines, and CV profit should continue to be based on MHTL's methanol division as calculated in the *Preliminary Determination*.

Petitioner further argues that, even if MHTL had timely provided its UAN profitability data, those data are distorted and should not be used to calculate CV profit because, as noted in the Department's Cost Verification Report, depreciation expense has been overstated in UAN's cost of goods sold which would significantly understate profit at the UAN division.²⁸ Petitioner argues that if the Department were to use the UAN income statement to calculate UAN-specific profitability, it would first have to make an adjustment to reallocate depreciation expense from UAN to melamine. Petitioner alleges that this reallocation is not ideal and no such reallocation would be needed for the profit calculation if CV profit remained based on the methanol division. Petitioner contends that, because the cost of goods sold reported for the methanol division is not distorted by the misallocation of depreciation expense, it is superior to the UAN division as a source for CV profit.

Petitioner rebuts that CV profit should not be based on the Borealis financial statements. Petitioner argues that the vast majority of Borealis' company-wide sales consist of other products that are not comparable to melamine, pointing out that Borealis sold only 134,000 tons of melamine compared with 3,400,000 MT of polyfins and 4,600,000 MT of fertilizers. Petitioner contends that, though not identical, all of the merchandise produced at MHTL's methanol division is at least comparable to melamine. Petitioner asserts that the fact that Borealis is a European company is no basis to prefer it over MHTL's methanol division in Trinidad and Tobago. Petitioner contends that when determining profit under the alternative approaches set forth at section 773(e)(2)(B) of the Act, the relevant "foreign country" must be "the country in which the merchandise is produced" and, accordingly, profits should be related to Trinidad and Tobago, not Italy (or Austria). Petitioner adds that MHTL has not demonstrated that Borealis' non-melamine products are comparable to melamine. Petitioner contends that, if the Department were to rely on Borealis' financial statements to derive CV profit, it would be preferable to use the company's segmented financial data for the division that includes melamine.

Petitioner adds that, if the Department calculates CV profit based on MHTL's UAN division, it should first make an adjustment to reallocate depreciation expense from UAN to melamine. Petitioner argues that, when calculating CV profit, the Department should reduce the UAN cost

²⁸ See Cost Verification Report at 2.

of goods sold by the amount discussed in the Cost Verification Report.²⁹ Petitioner contends that any double counting of G&A expenses in the calculation of CV profit using MHTL's methanol division data can be easily corrected and should not be a reason for the Department to reject this approach in favor of using MHTL's UAN division to calculate CV profit for the final determination.

Department's Position: As stated above, for the *Preliminary Determination*, in calculating CV profit for MHTL under section 773(e)(2)(B)(iii) of the Act, we used the profit from MHTL's methanol division. However, after considering the record evidence, and the arguments in the parties' briefs and rebuttal briefs, for the final determination we recalculated CV profit for MHTL under section 773(e)(2)(B)(iii) of the Act using the profit from MHTL's UAN division, adjusted for depreciation.

As noted above, MHTL did not have a viable home market, and all sales in the third-country market fell below cost during the POI. Because MHTL did not have home-country or third-country market sales to serve as the basis for NV, NV must be based on CV. Likewise, absent a viable home market or usable third-country market, we are unable to calculate a CV profit using the preferred method under section 773(e)(2)(A) of the Act.³⁰ When the preferred method is unavailable, section 773(e)(2)(B) of the Act establishes three alternatives for determining CV profit. They are:

(i) the actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review...for profits, in connection with the production and sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise, (ii) the weighted average of the actual amounts incurred and realized by exporters or producers that are subject to the investigation or review (other than the exporter or producer described in clause (i))... for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country, or (iii) the amounts incurred and realized...for profits, based on any other reasonable method, except that the amount allowed for profit may not exceed the amount normally realized by exporters or producers (other than the exporter or producer described in clause (i)) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise; {(i.e., the "profit cap")}.

The statute does not establish a hierarchy for selecting among the alternatives for calculating CV profit.³¹ Moreover, as noted in the SAA, "the selection of an alternative will be made on a case-by-case basis, and will depend, to an extent, on available data."³² Thus, the Department has

²⁹ *Id.*

³⁰ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act as reprinted in 1994 U.S.C.C.A.N. at 4177, ("SAA") at 840 ("where the method described in section 773(e)(2)(A) cannot be used...because there are no home market sales of the foreign like product...").

³¹ See SAA at 840 ("At the outset, it should be emphasized, consistent with the Antidumping Agreement, new section 773(e)(2)(B) does not establish a hierarchy or preference among these alternative methods. Further, no one approach is necessarily appropriate for use in all cases.")

³² *Id.*

discretion to select from any of the three alternative methods, depending on the information available on the record.

The specific language of both the preferred method and the alternative methods appears to show a preference that the profit and selling expenses reflect: (1) production and sales in the foreign country; and (2) the foreign like product, *i.e.*, the merchandise under consideration. However, when selecting a profit from available record evidence, we may not be able to find a source that reflects both of these factors. In addition, there may be varying degrees to which a potential profit source reflects the merchandise under consideration. Consequently, we must weigh the quality of the data against these factors.

In this case, the Department is faced with several alternatives for CV profit based on available data that reflect at least one of the criteria noted above. We, therefore, weighed the value of the available data, and in particular, determined which requirement is more relevant for this case based upon the record before us. With each of the statutory alternatives in mind, we have evaluated the data available and weighed each of the alternatives to determine which surrogate data source most closely fulfills the aim of the statute. We find that the Department could not rely on alternative (ii), *i.e.*, profit for other exporters or producers subject to the investigation, because there were no other respondents subject to the investigation.

In weighing the available information and determining which source to use under both alternative (i) and (iii), we first determined which products, if any, fit within “the same general category of products as the subject merchandise.” The term “general category of products” is not defined in the statute. However, the SAA provides that the term “encompasses a category of merchandise broader than the ‘foreign like product’.”³³ In that regard, we considered whether subject merchandise and other products such as methanol, UAN, polyfins and fertilizers are similar enough to melamine to be considered within the same general category of products. Determining which products are sufficiently similar to melamine to be considered within the same general category of product is imperative under alternative (i), *i.e.*, profit for the same general category of products as subject merchandise. It is equally important under alternative (iii) because it goes directly to the question of how to evaluate the surrogate financial information of: 1) the Borealis financial statements which contain the financial results of melamine, polyfins, and fertilizers; 2) MHTL’s segmented data for methanol; and 3) MHTL’s segmented financial data for UAN.

In assessing whether a given product is in the same general category of products as the subject merchandise for purposes of calculating CV profit, we evaluate the products in question from both a production and sales perspective since profit is a function of both cost and price.³⁴ Differences between the physical characteristics of products, differences in production processes, quality, testing and certification requirements, how the products will be used, and the market conditions associated with the industries and customers who purchase and use the different products all materially impact the profit earned on the different products.³⁵ After considering these points, we find that the parties did not provide information for the record with respect to

³³ *Id.*

³⁴ See *OCTG from Korea*.

³⁵ *Id.*

most of these criteria (*e.g.*, testing and certification requirements, how the products will be used, and the market conditions associated with the industries and customers who purchase the different products). Therefore, we cannot make a judgment as to whether polyfins, fertilizers, methanol or UAN are in the same general category of product as melamine. We have some knowledge of the production processes and physical characteristics of these products. Therefore, in selecting a reasonable source of CV profit and selling expenses data amongst the available options before us, we cannot apply option (i) and must instead determine profit and selling expenses under option (iii) “any other reasonable method.” Because there is no information on the record with regard to the profit realized by other exporters or producers of the general category of merchandise in Trinidad and Tobago, we applied alternative (iii) without a profit cap.

Looking at all of the proposed options, the record shows that only the Borealis financial statement data actually contain melamine sales and cost. However, we find that the proportion of melamine as compared to other products produced by Borealis is so small as to not be meaningful.³⁶ The profit from the Borealis financial statements reflects predominantly other products and not melamine. Further, MHTL has not shown that the non-melamine products produced by Borealis (*i.e.*, polyfins and fertilizers) are comparable products to melamine. In addition, Borealis’ products are produced and sold in Europe and not Trinidad and Tobago. Therefore, neither of the preferences noted above are satisfied by the Borealis financial data. We find MHTL’s argument regarding Borealis’ location in Europe being relevant, given that the third-country market in this case is Italy, to be unpersuasive. As noted above, the language of both the preferred method and the alternative methods show a preference that the profit and selling expenses reflect production and sales in the foreign country, and in this case the foreign country is Trinidad and Tobago.

In the *Preliminary Determination*, the Department chose a reasonable option among the alternatives. Moreover, we explained our reasoning in the *Preliminary Determination*, which continues to hold for the final determination, stating “We are not relying on the company-wide financial statements for the Austrian...companies because it appears that the vast majority of the company-wide sales...include products other than melamine. While the segmented information for the Austrian company includes melamine production and sales, the majority of these sales relate to other products (*e.g.*, fertilizers).”

Therefore, in evaluating the best source for CV profit on the record we compared the financial data of methanol and UAN. Both of these products were produced in Trinidad and Tobago. However, the record shows that UAN is more comparable to melamine than methanol. UAN is produced in MHTL’s AUM complex along with melamine in a separate location from MHTL’s methanol production facility. UAN shares many of the same production processes as melamine. Within the AUM complex, natural gas is first used to produce ammonia, ammonia is then used to produce urea, and finally urea is used to produce both UAN and melamine. On the contrary, methanol is produced directly from natural gas.

MHTL asserts that, like the Borealis financial statements, both MHTL’s UAN and methanol segmented data contain the results of products other than melamine, and therefore this reason

³⁶ See letter from MHTL, “Melamine from Trinidad and Tobago; Constructed Value Profit and Selling Expense Information’s CV Submission,” dated May 8, 2015, at Attachment 2, page 67.

does not justify rejecting the Borealis financial statements. However, the Department's task is to determine the best option among the alternatives, and while UAN is not melamine, the record shows that it is a closely related product that shares many common production processes with melamine, whereas the record does not show that the Borealis non-melamine products are comparable to melamine.

We disagree with Petitioner that the UAN segmented data was new factual information obtained at verification and that Petitioner would be unfairly prejudiced if this data were used. The UAN segmented data were obtained at verification as a necessary component of the cost reconciliation, reconciling MHTL's factory and product-line income statements to its financial accounting system. This procedure is performed at all cost verifications and was included in the verification agenda.³⁷ The UAN data was MHTL's own information and not third party information presented unsolicited by MHTL.

We disagree with Petitioner that it did not have ample opportunity to comment on the UAN data as it did the Borealis financial statements. The parties were put on notice in the Cost Verification Report that the UAN data would be considered, and Petitioner had the opportunity in the briefing stage to address the UAN data. We note that, besides its claim that the UAN data was inferior because an adjustment to depreciation expense was necessary, Petitioner did not object to the substance of the UAN data, only the manner and timing of its placement on the record. We also disagree with Petitioner that the need for an adjustment to depreciation expense makes the UAN data inferior. An adjustment for depreciation expense will serve to improve the accuracy of the data, not render it unusable.

We agree with MHTL that when calculating CV profit based on the UAN segmented data we should be careful not to double count certain G&A expenses as we did in the *Preliminary Determination*. Therefore, in our calculation of G&A expenses, within the calculation of CV profit, we have taken into account the reclassification of G&A expenses from the cost of goods sold in the calculation of the G&A expense ratio.³⁸

Finally, we note that none of the available profit options on our record (*e.g.*, Borealis financial statements, Borealis segment data, MHTL UAN data, and MHTL methanol data) can be used as a profit cap under option (iii), because they neither represent a home market profit, nor can they be said to represent the same general category of products. In our opinion, MHTL's UAN data is the most reasonable surrogate given the similarities of the production process, and the remaining choices are inferior and cannot reasonably be used as a profit cap.

³⁷ See letter from the Department, "Investigation of Melamine from Trinidad and Tobago {Verification Agenda}," dated June 12, 2015, at page 6, step III.A.

³⁸ See MHTL Final Cost Analysis Memorandum.

Comment 5: Treatment of Certain Commission Expenses

*Petitioner's Comments*³⁹

Petitioner notes that the Department double counted a U.S. commission expense in the preliminary margin calculations by erroneously including it in both ISE and commission expense. However, Petitioner disagrees with the remedy that MHTL proposed in the minor corrections provided prior to verification,⁴⁰ where MHTL explained that commission expense should be eliminated from U.S. ISEs.⁴¹ For reasons explained in the proprietary exhibits of the Section C response, and in SCC's accounting records, Petitioner disagrees that these expenses constitute commission expense.⁴² As a consequence, Petitioner argues that these expenses should be classified as ISEs rather than commission expense for the final determination.

*MHTL's Rebuttal*⁴³

MHTL contends that although SCC records the expenses at issue as legal and professional fees rather than commission expenses, the expense represents a commission formula including a base plus a premium based on sales volume. MHTL disagrees with Petitioner's assertion that this expense does not constitute a commission because it is tied to the volume of sales and not the value. MHTL contends that the total amount paid is a function of sales activity, so that whether the activity is measured by value or volume, the more that is sold, the more that is paid.

MHTL asserts that, regardless of whether the Department classifies the expense at issue as a commission or an indirect selling expense, it should not be double counted.

Department's Position: We agree with both Petitioner and MHTL that we erroneously double counted SCC's commission expense as both commission expense and ISEs in the *Preliminary Determination*. In addition, for the reasons explained in Petitioner's case and rebuttal briefs, we find that these expenses should be classified as ISEs for the final determination. Because this issue involves discussion of business proprietary information, a complete discussion is included in MHTL Final Sales Analysis Memorandum, dated concurrently with this memorandum.⁴⁴ Therefore, we have revised our calculations to eliminate the double-counting, and to treat these expenses exclusively as ISEs for the purposes of the final determination.⁴⁵

³⁹ See Petitioner's Case Brief at 8-11.

⁴⁰ See letter from MHTL, "Melamine from Trinidad and Tobago; Southern Chemical's Minor Corrections Submitted at the Start of Verification," dated June 17, 2015 (*i.e.*, Verification Exhibit SCC-1).

⁴¹ *Id.*

⁴² Petitioner cites to letter from MHTL, "Melamine from Trinidad and Tobago; Southern Chemical and MHTL's Sections B and C Questionnaire Responses," dated March 6, 2015 ("BQR" and "CQR"), at C-25 and Exhibit C-16. In addition, Petitioner cites to letter from MHTL, "Proprietary Verification Exhibits of Southern Chemical Corporation; Melamine from Trinidad and Tobago," dated June 22, 2015 ("SCC's Verification Exhibits"), at Verification Exhibit SCC-11.

⁴³ See MHTL's Rebuttal Brief at 7.

⁴⁴ See the proprietary discussion and analysis in the MHTL Final Sales Analysis Memorandum.

⁴⁵ *Id.*

Comment 6: Omission of Certain Expenses from ISE in the United States

*Petitioner's Comments*⁴⁶

Petitioner alleges that the Department erroneously omitted certain expenses from ISEs that were incurred for the sales of melamine and included on the proprietary version of SCC's financial statements and classified by SCC as ISEs.⁴⁷ As a consequence, Petitioner contends that these expenses should be included in ISEs for the final determination.

No other party provided comments on this issue.

Department's Position: We agree with Petitioner and have revised our calculation to include these expenses as an ISE included as part of normal value ("NV"). As with the previous comment, a full discussion of this business proprietary information is available in MHTL Final Sales Analysis Memorandum.⁴⁸

Comment 7: Treatment of CV Selling Expenses

*Petitioner's Comments*⁴⁹

Petitioner asserts that in the *Preliminary Determination*, the Department calculated a CV selling expense ratio based on the "marketing expenses" at MHTL's methanol division. Petitioner contends, however, that these expenses do not reflect direct selling expenses (such as movement expenses) already captured in the margin calculations as price adjustments. Rather, Petitioner contends that these expenses represent ISEs incurred by MHTL's melamine division in Trinidad and Tobago.

Petitioner notes that, in the *Preliminary Determination* margin program, the Department erroneously included these marketing expenses in the ratio for direct selling expenses for CV ("DSELCVR") rather than in the ratio for ISEs. Petitioner argues that the Department should correct this error by including such marketing expenses in the ratio for ISEs for CV ("ISELCVR") for the final determination. Petitioner contends that no CEP offset was made in the *Preliminary Determination* because NV was determined at the same level of trade as the CEP sales. According to Petitioner, CV selling expenses should be included as part of NV and the Department should not deduct MHTL's "marketing expenses" from NV by erroneously treating this item as a direct selling expense.

⁴⁶ See Petitioner's Case Brief at 11.

⁴⁷ Petitioner cites to the letter from MHTL, "Melamine from Trinidad and Tobago; Southern Chemical and MHTL's First Supplemental Section A-C Questionnaire Response," dated April 24, 2015, at Exhibit SC-6, and SCC's Verification Exhibits at Verification Exhibit SCC-8.

⁴⁸ See MHTL Final Sales Analysis Memorandum.

⁴⁹ See Petitioner's Case Brief at 4-5.

*MHTL's Comments*⁵⁰

MHTL argues that if the Department chooses not to use the 2014 financial statements of Borealis for CV selling expenses and profit, it should not rely on the selling expenses incurred in the methanol division. Rather, MHTL argues that the Department should rely on the expenses incurred in the UAN division, because UAN is produced within the same production complex as melamine and, because UAN shares several production steps with melamine, and thus, is a more comparable product.

Department's Position: We agree with MHTL. In the *Preliminary Determination*, we based CEP profit and selling expenses on the same source as the CV profit ratio. Because the source of the CV profit ratio has changed for the final determination,⁵¹ we are similarly changing the source for the selling expense and CEP profit ratios for the final determination from the methanol division to the UAN division. As a consequence, we are making the following changes to our margin calculations:

- We are determining DSELCVR by dividing the figure for "Selling Expenses" recorded in MHTL's UAN-specific income statement by the value of total sales recorded on that financial statement.⁵²
- We are determining ISELCVR by dividing the figure for "Marketing Expenses" recorded in MHTL's UAN-specific income statement by the value of total sales recorded on that financial statement.⁵³
- We are basing CEP profit on the ratio for CV profit recorded in the UAN division.⁵⁴

⁵⁰ See MHTL's Case Brief at 5-6.

⁵¹ See Comment 4 of this memorandum.

⁵² See Memorandum to the File, "Verification of the Cost Response of Methanol Holdings (Trinidad) Limited in the Antidumping Duty Investigation of Melamine from Trinidad and Tobago," dated July 31, 2015 ("Cost Verification Report") at CVE-5, pages 39-40. See also MHTL Final Sales Analysis Memorandum at Attachment 6 and at Attachment 3, line 7786.

⁵³ *Id.* at line 7789.

⁵⁴ *Id.* at line 6699.

VI. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final determination in the investigation and the final weighted-average dumping margin in the *Federal Register*.

✓
Agree

Disagree

Pe PL
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

30 OCTOBER 2015
(Date)